

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MATTHEW ALAN SMITH, Plaintiff, vs. UNITED PARCEL SERVICE, Inc., Defendant.	CIV. 14-4094-KES ORDER DISMISSING CASE
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Plaintiff filed a complaint in the above-entitled action on June 13, 2014. Pursuant to Federal Rule of Civil Procedure 4(m), plaintiff had 120 days to serve the summons and complaint on defendant. Plaintiff has not filed with the Clerk of Courts verification of service on defendant. Rule 4(m) states in pertinent part:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.

Fed. R. Civ. P. 4(m). Over 120 days have elapsed since the filing of this complaint. Pursuant to Rule 4(m), on February 23, 2015, this court gave plaintiff notice of its intention to dismiss this action as to defendant without prejudice if service of the summons and complaint was not made by March 23, 2015, or if good cause was not shown as to why defendant had not been served. Proof of service of defendant has not been filed with this court, and this

court has not been asked to extend the time for service as to this defendant.

Accordingly, it is

ORDERED that plaintiff's complaint against defendant is dismissed without prejudice.

Dated September 9, 2015.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE